SINGLE BENCH

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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 4387/2005

PETITIONERS : 1. Girja Devi,
Wd/o Late Shri Kamlakant Jayaswal
Aged about 65 years.

2. Rajesh Kumar,
S/o Late Shri Kamlakant Jayaswal,
Aged about 47 years.

3. Indira alias Sadhna,
D/o Late Shri Kamlakant Jayaswal,
Aged about 42 years.
All are r/o Tilak Nagar, Pratap Talkies Chowk, Bilaspur, Tahsil and District- Bilaspur (C.G.).

-Versus-

RESPONDENTS : 1. Shri Ashok Kumar,
S/o Shri Ramdas Jayaswal,
Aged about 47 years.

2. Sushri Geeta Devi,
D/o Shri Ramdas Jayaswal,
Aged about 61 years.
No.1 to 3 are R/o Tilak Nagar,
Ramdas Petrol Pump,
Bilaspur (C.G.).

3. Smt. Seeta Devi,
D/o Shri Ramdas Jayaswal,
W/o Shri Kishan Prasad Gupta,
Mahavir Ghat, Dawara Balia,
District- Balia (U.P.).

4. Smt. Durga Devi,
W/o Shri Prem Shankar.
R/o. Tilak Nagar, Ram Das Petrol pump ke pass Bilaspur (C.G.)
5. Smt. Shanti Devi,
W/o Shri Hargovind Prasad,
R/o C/o Shri Hargovind Prasad
Sudhir Kumar Jayaswal, Alipur
Chowk, Gorakhpur (U.P.).

WRIT PETITION UNDER ARTICLE [redacted]/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A WRIT OF MANDAMUS, PROHIBITION, CERTIORARI ETC.OR ANY OTHER DIRECTION OR ORDER TO DO JUSTICE IN THE MATTER.

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XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 4387/05 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	19.9.2005 Shri Rajeev Shrivastava, counsel for the petitioners. Heard on admission. The petitioners have preferred this writ petition questioning the legality, propriety and correctness of the order dated 4.5.2005 passed by learned 1st Additional Sessions Judge, Bilaspur whereby the prayer of the petitioners for giving direction to the Commissioner for division of petrol pump, as mentioned in Item No.4 of Schedule-II has been rejected. Learned counsel for the petitioners submits that as per decree, Caltex Petrol Pump, which has been shown as Item No.4 in Schedule-II of the plaint and Item No.1 in Schedule-B of counter claim, was decided as a joint family property, therefore, same is liable to be partitioned. Whereas, as per decree, another Caltex Petrol Pump situated at Kathghora is not a joint family property, therefore, the Executing Court ought to have directed the Commissioner for partition of Caltex Petrol Pump situated at Bilaspur. Arguments advanced by learned counsel for the petitioners is about the ambiguity in the order and same is not being passed considering the final decree. In the circumstances, the petitioners can move for modification/review of the order, if any ambiguity is	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

left out. At this stage unless the position argued by learned counsel for the petitioners is clarified in the order, the writ petition is not maintainable and interference in the order of Executing Court is not called for.

With the aforesaid, the petition is disposed of.

Consequently, M.(W.)P. No.3568/05 & I.A. No.7934/05 also stand disposed of.

Sd/-
L.C. Bhadoo
Judge